IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 292 OF 2007

1. Tukaram Babru Bagal
2. Sou. Malan Tukaram Bagar ..Applicants
V/s
The State of Maharashtra ..Respondent.

Mr.R.S. Apte with Ms. Nayana Thatte, Advocates for the applicants.

Mr. D.P.Adsule, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 22ND MARCH, 2007.

P.C.

. Heard Mr. Apte, learned Counsel for the applicant and Mr. Adsule, learned APP for the State. The applicants, who are original accused No.1 and 2 were convicted for the offence punishable under section 307 r/w section 34 of IPC and were sentenced to undergo R.I. for six years and to pay fine of Rs.500/- each. They were also convicted for the offence punishable under section 498A IPC and Section 4 of the Dowry Prohibition Act and varying sentences were awarded. They have preferred appeal challenging the conviction and sentence. Appeal is admitted.

2. The prosecution case, in brief, is that deceased

Surekha was married to Santosh, who is son of the present applicant No.1, who has been acquitted. About a year before the incident of this case, at the time of marriage her parents had given some household articles like a Cot, Cushions, copper utensils etc. However, her parents could not pay amount of Rs.5000/- as dowry. For some time after the marriage, she was treated well but thereafter, the husband and mother-in-law began to ill-treat her to pressurise her to bring the amount of Rs.5000/-. Her husband was living at Mumbai for 3 to 4 months. On 11/6/2006 her father-in-law and mother-in-law allegedly abused her on account of demand of money. When Surekha was cooking on Chula, her mother-in-law i.e. accused No.2 poured kerosene on her person. When Surekha tried to run away to save herself, her father-in-law accused no.1 made her to sit by holding her and mother-in-law attempted to set her to fire with a match stick. However, before she could put her to fire, in this scuffle her saree fell on the Chula and caught fire, as a result of which she was burnt. She shouted and people gathered there. Then her father-in-law extinguished fire by pouring water. The above facts were stated by her before the police officer after she was taken to the hospital. However, in her

dying declaration recorded by the Magistrate, she did not utter any thing against father-in-law. Thus two dying declarations are consistent to the extent of mother-in-law but inconsistent in respect of father-in-law. There is no eye witness. In view of the facts stated above, I find that applicant No.1 Tukaram, being father-in-law, is entitled to be released on bail. As far as applicant No.2 is concerned, she is old lady and therefore, in my opinion, she may be granted bail pending the appeal.

3. The application is allowed. Both the applicants are released on their executing P.R. of Rs. 25,000/- each with surety in like amount subject to their depositing fine amount with further condition that they shall not misuse the bail

(J.H. BHATIA, J.)